



0000092839

1 BEFORE THE ARIZONA POWER PLANT AND TRANSMISSION
2 LINE SITING COMMITTEE

3
4 IN THE MATTER OF THE APPLICATION)
5 OF ARIZONA PUBLIC SERVICE COMPANY))
6 FOR A CERTIFICATE OF)
7 ENVIRONMENTAL COMPATIBILITY)
8 AUTHORIZING THE BAGDAD 115kV)
9 TRANSMISSION LINE RELOCATION) DOCKET NO.
10 PROJECT, WHICH INCLUDES THE) L-00000D-09-0161-00143
11 RELOCATION OF A 115kV)
12 TRANSMISSION LINE AND ASSOCIATED)
13 FACILITIES ORIGINATING FROM AN)
14 EXISTING APS CAPACITOR BANK) CASE NO. 00143
15 STATION, SECTION 10, TOWNSHIP 14)
16 NORTH, RANGE 9 WEST, G&SRB&M, AND)
17 AN EXISTING FMI MINE SUBSTATION,)
18 SECTION 31, TOWNSHIP 15 NORTH,)
19 RANGE 9 WEST, G&SRB&M, EACH)
20 LOCATED WEST OF THE)
21 UNINCORPORATED TOWN OF BAGDAD,)
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1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on to be heard before the Arizona
3 Power Plant and Transmission Line Siting Committee, at
4 1275 West Washington Street, Second Floor Conference
5 Room, Phoenix, Arizona, commencing at 10:03 a.m. on the
6 19th of March, 2009.

7
8 BEFORE: John Foreman, Chairman

9 APPEARANCES:

10 For the Arizona Corporation Commission Staff:

11 Ms. Janet Wagner
12 Ms. Amanda Ho
13 Mr. Wesley Van Cleve
14 1200 West Washington Street
Phoenix, Arizona 85007

15 For Arizona Public Service Corporation:

16 LEWIS AND ROCA, L.L.P.
17 By Mr. Thomas H. Campbell
18 40 North Central Avenue
Phoenix, Arizona 85004

19

20 Also present:

21 Mr. Paul Herndon, APS Project Director
22 Ms. Tara Williams, Assistant to Chairman Foreman

23

24 COLETTE E. ROSS
25 Certified Reporter
Certificate No. 50658

1 CHMN. FOREMAN: This is a preapplication filing
2 conference in the matter of, looks like it is going to
3 be the -- we are going to call it the Bagdad relocation
4 project. Is that --

5 MR. CAMPBELL: Yes.

6 CHMN. FOREMAN: Let me have you folks identify
7 yourselves for the record, please.

8 MR. CAMPBELL: Tom Campbell of Lewis and Roca
9 representing APS. And with me is Mr. Paul Herndon, the
10 project director.

11 MS. WAGNER: Janet Wagner, Amanda Ho and Wesley
12 Van Cleve for the Arizona Corporation Commission Staff.

13 CHMN. FOREMAN: The record should also reflect
14 that Tara Williams is here.

15 Now, we have, as I understand it, the potential
16 of this application being filed in the near future.

17 MR. CAMPBELL: Yes. Mr. Chairman, our current
18 plan would be to file the application on March 27, which
19 is a Friday, unless it, unless for timing and
20 publication purposes we discover today it makes more
21 sense to file it the following Monday, which would be
22 March 30th, but one of those two days.

23 We had tentatively proposed to have hearings --
24 we think this case will only have a one-day hearing but
25 we are going to suggest that we set aside two just for

1 purposes of leasing facilities. We were hoping to have
2 the hearings on May 18th and 19th. We have a Hampton
3 Inn facility reserved for those two days.

4 We do not expect, other than Staff, we don't
5 expect any intervenors in this case. We expect it to be
6 a fairly brief case. And that's the logistics, the
7 logistics of it.

8 CHMN. FOREMAN: Now, your little brochure that
9 you have given me indicates that you are anticipating
10 relocating approximately three miles of an existing
11 115kV transmission line. Is all of the area that is
12 related to the relocation rural; we are not dealing with
13 any inhabited areas?

14 MR. CAMPBELL: Well, Mr. Chairman, I think
15 that's correct. If it would be helpful, Mr. Herndon
16 could probably take five minutes and just walk you and
17 the Staff through an overview of the project area, and
18 that might be helpful --

19 CHMN. FOREMAN: That would be great.

20 MR. CAMPBELL: -- with your permission.

21 MR. HERNDON: For those of you that may not be
22 familiar with the town of Bagdad, where the Bagdad mine
23 is, a large copper mine that has been owned by a number
24 of different entities throughout time, it actually has
25 been in the production of copper since, I believe, the

1 late 1800s, it is a, it is in Bagdad, Arizona, which is
2 in Yavapai County. If you can kind of visualize going
3 up Highway 93 to Kingman, there is a road that you turn
4 off. And you go about 20 miles back in the wilderness
5 area there to Bagdad. The town of Bagdad, it is
6 unincorporated. Bagdad, for all intents and purposes,
7 the town is solely there for the operation of the mine.
8 So most of the people that live there work at the mine
9 or work in businesses that support the mine for the most
10 part.

11 Freeport-McMoRan Copper & Gold, Inc. purchased
12 the assets of the Phelps Dodge Mining Company in 2008.
13 We started working on this project, were asked by Phelps
14 Dodge in early 2000 -- actually in about, yes, early
15 2008 for us to take a look at moving a portion of the
16 existing line that serves their mine. It is a 115kV
17 line. And what they have is they have an approved
18 expansion plan for the mine. And the area where the
19 line is currently located at some point in time is going
20 to be a fill area. So the poles which are, you know,
21 60-, 70-foot poles will actually be totally underground.
22 So we have to move them.

23 If you look at the map on the back of the
24 handout there, the little brown kind of looking line
25 that you see going from the triangle on the southern

1 part of the map to the northern part, that's the
2 existing line. It is about three miles long. The red
3 line is the proposed relocation route.

4 The thing that is of major importance here is
5 that the yellow surface map color there is BLM land,
6 Bureau of Land Management land. The blue is Arizona
7 State Department trust lands. And the gray is private
8 property that, actually that is owned by the mine. So
9 this line will all be relocated on predominantly public
10 land and a little bit on private land that is actually
11 owned by the mine.

12 There is one property owner in the vicinity of
13 the project. If you, if you can kind of see this little
14 square down here where my finger is pointing to --

15 MS. WAGNER: The gray one?

16 MR. HERNDON: -- the gray one down here, there
17 is a private ranch owned by Mr. Ed Kellis. Mr. Kellis
18 is a former employee of the mine, does ranching, runs
19 cattle in the area. He worked for the mine for a number
20 of years. We have had a number of conversations with
21 him. He is supportive of the project, has asked us
22 simply to, if we have to cut fences, to make sure to
23 repair them and put cattle guards in so his cattle will
24 remain whole in that area.

25 Like I said, about a year and a half ago when

1 the mine folks asked us to take a look at this, we began
2 exploring the possibility of moving this. When we found
3 out that we needed to move the line significantly to the
4 south to get out of their future mine expansion plans,
5 we found out right away that to do that we were going to
6 have to cross that yellow or federal BLM land. So we
7 started, filed an application with the Kingman field
8 office of the BLM in May of 2008 and have been in the
9 process of, in a NEPA, National Environment Policy Act,
10 process, processing an environmental assessment. We
11 have hired the environmental consulting firm of the EPG,
12 the environmental planning group, that has actually been
13 working for the BLM at the direction of APS and FMI.

14 I was in Kingman yesterday. We expect to have a
15 federal decision and a finding of no significant impact
16 with regard to the EA by the end of April of this year,
17 kind of, you know, the culmination of about a year
18 process for federal land.

19 If we also look at the map, at the very bottom,
20 the very southerly portion of the map, you will see a
21 very small segment there. It is around 3,000 feet on
22 the blue area. That's Arizona State trust lands. We
23 have had meetings with the State Land Department and
24 have filed an application with the State for a right of
25 way across their lands that they are currently

1 processing. And they are in support of the project, and
2 we fully expect to get a right-of-way from the State
3 Land Department.

4 All in all, this is in a very, very remote area,
5 very difficult to get to, very, very difficult terrain.
6 And for the most part, I think in the federal scoping
7 process, where we have solicited comments on this, I
8 think we had a total of seven comments in that area.
9 And most of them came from federal or from tribal
10 interests, not in the area so much but just, generally
11 speaking, the Indians have been contacted and so they
12 have had some issues or have asked to be added to the
13 mailing list. And we have been in communication with
14 them since the get go.

15 CHMN. FOREMAN: How close is the nearest Indian
16 territory to this?

17 MR. HERNDON: Many, many miles away. I don't
18 know exactly.

19 CHMN. FOREMAN: Okay. You mentioned that the EA
20 process was continuing with BLM. If there is a delay in
21 that process do you anticipate it will cause a delay in
22 our application process?

23 MR. HERNDON: I don't believe so. The reason I
24 say that is, based on our conversations with the BLM
25 yesterday, a decision, an approval decision from them I

1 believe is imminent and, if it doesn't happen by the end
2 of April, that it will happen very shortly thereafter.

3 CHMN. FOREMAN: Okay.

4 MR. HERNDON: I believe we will have that prior
5 to a hearing in mid May.

6 CHMN. FOREMAN: All right. And does Staff have
7 any, has Staff had any contact with anybody who has
8 indicated an interest in this project?

9 MS. WAGNER: No.

10 CHMN. FOREMAN: All right.

11 MS. WAGNER: That doesn't mean there hasn't;
12 there is none that I have been aware of. Let me make
13 that clear.

14 CHMN. FOREMAN: Okay. Let's see. I have got a
15 couple of -- I didn't realize I was going to have so
16 many people here. I have got a couple of draft
17 procedural orders and a couple draft sets of conditions
18 that I pass on to you. And I will have both of those
19 marked and filed here as a part of this proceeding.

20 I would like to go through the procedural order
21 with you because it basically sets forth the process
22 that I hope will evolve.

23 . First off, we had before a preevidentiary
24 hearing; in the past I have used a preevidentiary
25 hearing. I want to do the same thing this time. We

1 will schedule it within ten days before the evidentiary
2 hearing. I do that because that's after the time that
3 is scheduled for intervention by anybody so we can
4 assume that we are not going to have anybody
5 intervening.

6 Since we just have two parties, I will want you
7 folks to get together, exchange your witness summaries
8 and exchange your exhibits. Exhibits will be numbered
9 A-1 through whatever and CC-1 through whatever. And
10 obviously if we want to get this done in one day,
11 everybody needs to get their cards on the table before
12 the hearing so the other side will have a fair
13 opportunity to deal with what the other side is going to
14 present.

15 I think, do you have a copy of a proposed
16 notice?

17 MR. CAMPBELL: I do. This is a marked up copy.
18 I was going to send -- I will send everyone one by
19 e-mail. There are a couple items there that I think we
20 would like to talk about.

21 That includes everything that had been in prior
22 notices. There are a couple recommendations we have in
23 this case for your consideration that we have discussed
24 with Staff.

25 CHMN. FOREMAN: All right. I think there are

1 two issues that I would like to address. One would be
2 the public comment session. Now, let's see, you are
3 setting this up at the Hampton Inn Suites in Goodyear.
4 And about how far away is that from the location?

5 MR. CAMPBELL: Bagdad? It would be a couple
6 hours drive.

7 CHMN. FOREMAN: Okay. Now, I assume that the
8 applicant will provide some sort of an aerial photograph
9 tour, a Google tour, something like that.

10 MR. HERNDON: We can do that. I believe we can
11 do that. I will need to check to see what availability
12 of adequate photo imagery is in the area. But we will
13 be happy to provide that if that's available.

14 CHMN. FOREMAN: If the, if the committee wanted
15 to take a tour, is it possible to go along the proposed
16 route?

17 MR. HERNDON: No. There is an existing dirt
18 road out there that is, it actually is there for the
19 most part going down to that one piece of private
20 property there that I mentioned. Then it does go on to
21 the west beyond that.

22 But a route tour here is extremely problematic.
23 It is in very, very bad terrain and it is very difficult
24 to get to. For the most part if you drive on the
25 existing road you can only see small bits and segments

1 of where the line will go. The line is -- actually we
2 do have a centerline established for the line and we do
3 have big laths or big poles kind of sticking up. It is
4 like a PVC pipe rod that at certain vantage points you
5 can see portions of where a particular pole will be.
6 But it is very difficult to see the entire, the entire
7 alignment of the line from the existing road.

8 CHMN. FOREMAN: Well, we obviously have been
9 having some difficulties trying to engineer a tour that
10 is acceptable to or agreeable to all parties. So I am
11 wondering whether a tour would be needed in this case.

12 Does Staff have a position on that?

13 MS. WAGNER: We don't have a position. We don't
14 have any objection to there not being a tour.

15 CHMN. FOREMAN: Okay.

16 MR. CAMPBELL: We would recommend against a tour
17 in this case --

18 CHMN. FOREMAN: Okay.

19 MR. CAMPBELL: -- obviously subject to what the
20 committee wants.

21 CHMN. FOREMAN: Certainly.

22 MR. CAMPBELL: We don't think this is one that
23 it would be easy or particularly helpful probably.

24 MR. HERNDON: And, quite frankly, it is a bit
25 dangerous. I took the two BLM representatives there one

1 day. It was in the summertime, early summer, but it was
2 hot, got into probably the most remote area out there
3 and had a flat tire, and no cellphone reception in that
4 area. Luckily the spare was good and we were able to
5 get out, but it was a bit scary for a little while so...
6 And it does take a four-wheel drive vehicle, by the way.

7 CHMN. FOREMAN: Okay. Ordinarily it is my
8 reading of the law that it is the Chairman's decision as
9 to whether or not there will be a tour. I like to find
10 out whether any of my committee members are interested
11 in a tour or feel a tour would be valuable.

12 In a similar case in the recent past Staff has
13 objected to me polling the Committee to see whether
14 anybody was interested in a tour. So I am going to, in
15 order to avoid controversy, I am just going to say we
16 will not do a tour. We will wait until the hearing and
17 talk about it with Committee members at the hearing.
18 And if there are Committee members who feel that a tour
19 would be valuable, then we will cross that bridge when
20 we come to it.

21 Is that agreeable?

22 MR. CAMPBELL: That's fine. Mr. Chairman --

23 MS. WAGNER: That sounds fine.

24 MR. CAMPBELL: Mr. Chairman, if I could look at
25 this.

1 CHMN. FOREMAN: Sure.

2 MR. CAMPBELL: Would you like us to keep in the
3 notice that we are preparing, actually your notice that
4 you will be filing but we will be publishing, would you
5 like us to keep reference to a tour as something that --
6 what it says now is:

7 The Committee may conduct a tour at a future
8 date. If a tour is conducted, a map will be available.
9 Members can follow in private vehicles.

10 Would you like me to keep that paragraph in or
11 delete it?

12 CHMN. FOREMAN: Yes, I think it would be
13 appropriate to keep that language in because it is
14 possible --

15 MR. CAMPBELL: Okay.

16 CHMN. FOREMAN: -- that we will end up doing a
17 tour. But obviously it should be may and not will.

18 MR. CAMPBELL: And it is, that's the way it is
19 phrased. That's the way it is always phrased.

20 CHMN. FOREMAN: The other question then is the
21 public comment session. We have had traditionally in
22 larger matters an evening public comment session with
23 seven people who indicated an interest. I am wondering
24 if we could accommodate public comment during the day.

25 MR. CAMPBELL: That would be the applicant's

1 recommendation in this particular case.

2 CHMN. FOREMAN: Staff have any --

3 MS. WAGNER: We don't have any position one way
4 or the other but we don't object to having public
5 comment in the day.

6 CHMN. FOREMAN: Okay. All right. Let's then
7 just indicate that public comment will be, an
8 opportunity for public comment will be given during the
9 day. And I am assuming that you will have slips
10 available for people who want to come in and sign up so
11 that we can get their names and addresses and so on.

12 MR. CAMPBELL: Yes. Make a note of that. And
13 then we won't have a reference to an evening --

14 CHMN. FOREMAN: Correct.

15 MR. CAMPBELL: -- session.

16 CHMN. FOREMAN: You can just take the reference
17 of the evening public comment session out.

18 MR. CAMPBELL: Okay.

19 CHMN. FOREMAN: All right. That's good.

20 Now, I will want you to do a draft notice, get
21 approval from Staff as to form and then send it over to
22 me for final approval before you file it.

23 Let me call your attention to paragraph 6 of the
24 draft order. In it I indicate that the parties are not
25 to communicate with any member of the Committee about

1 basically anything that relates to the application while
2 the application is pending. You may communicate with me
3 about the listed matters if you communicate in writing
4 or you send an e-mail. Then a copy of the writing or
5 the e-mail has to be filed with Docket Control. So
6 hopefully that will resolve --

7 MS. WAGNER: I have a question --

8 CHMN. FOREMAN: Sure.

9 MS. WAGNER: -- about paragraph 6. I haven't
10 obviously read it all the way through yet. Is it your
11 intention in paragraph 6 for it to be more restrictive
12 than the ex parte rule that applies to the Committee?

13 CHMN. FOREMAN: Yes. My intention in
14 paragraph 6 is to draft it in a way that will avoid
15 conflict with Staff. And so --

16 MS. WAGNER: Is it your understanding that Staff
17 has been urging a practice that is more restrictive than
18 the current ex parte rule?

19 CHMN. FOREMAN: I don't want to go down that
20 path unless you do right now. I am just trying to avoid
21 problems. I don't want to, I don't want to have any
22 conflicts with anybody on this. And so --

23 MS. WAGNER: And I hope you don't take my
24 questions as intending to raise a conflict. I just
25 simply had questions and wanted to be sure I understood.

1 CHMN. FOREMAN: Sure. Yes, well, I am trying to
2 draw a bright line in an area where I don't think a
3 bright line existed. And you can, reasonable people can
4 disagree as to where the present ex parte rules line is
5 drawn and how bright it is. And since I am not sure and
6 we have had a problem in that area before, I am drawing
7 a real bright line here so that everybody knows what I
8 expect and so that we can avoid problems in the future.

9 MS. WAGNER: All right. If we have comments on
10 this, you would prefer them in writing and filed with
11 you?

12 CHMN. FOREMAN: Absolutely.

13 MS. WAGNER: All right. I simply haven't had a
14 chance to read it all carefully and digest it.

15 CHMN. FOREMAN: Sure. It is the same draft that
16 accompanied the order in the last case which was last
17 week.

18 MS. WAGNER: Which I haven't had a chance to
19 read that one either.

20 CHMN. FOREMAN: Okay, okay. Sure. And if you
21 have comments that you would like to make about that,
22 that would be great.

23 MS. WAGNER: All right.

24 CHMN. FOREMAN: Again, when an agenda is filed,
25 if there are objections, I will want Staff to let me

1 know if you have objections to the agenda so that we can
2 get those sorted out before the hearing.

3 MS. WAGNER: You mean the draft notice?

4 CHMN. FOREMAN: No. I mean an agenda.

5 MR. CAMPBELL: This is the open meeting agenda
6 that is posted at the Corporation Commission?

7 CHMN. FOREMAN: Yes.

8 MS. WAGNER: I guess, I just want to be sure I
9 understand, it is the agenda that is part of the open
10 meeting notice?

11 CHMN. FOREMAN: Yes.

12 MS. WAGNER: Is that the item?

13 CHMN. FOREMAN: That is.

14 MS. WAGNER: All right.

15 MR. CAMPBELL: And, Mr. Chairman, I assume your
16 office will then send us a copy electronically or
17 somehow of that notice?

18 CHMN. FOREMAN: Absolutely.

19 MR. CAMPBELL: Okay, thanks.

20 CHMN. FOREMAN: Absolutely. And although
21 because Staff is a party and you are not required, if
22 you see a problem, please let us know.

23 MR. CAMPBELL: All right.

24 CHMN. FOREMAN: The idea is to get this done
25 right the first time so that everybody is on board

1 together and we don't get halfway through or all the way
2 through a hearing and then have somebody say, oh, by the
3 way, a couple months ago you made a mistake.

4 Let's see. We have talked about, I think, most
5 everything else, except I do want you to exchange
6 proposed findings of fact, conclusions of law, CECs and
7 conditions in advance. Since this looks like it is
8 going to be a short hearing, it doesn't look like there
9 is going to be a continuation of the hearing, then you
10 will need to do that before, obviously, the hearing
11 date.

12 I would like, again, to narrow the disagreements
13 between the parties as much as possible. And the idea
14 here is to focus the attention of the Committee members
15 on what is important and to have the benefit of the
16 input of the parties in writing prior to the hearing so
17 that we are not just speculating about things in general
18 but we actually have some specific written material that
19 we can refer to.

20 Now, the draft conditions, and I stress that
21 they are draft conditions that I have provided here,
22 have at the end some very summary findings of fact and
23 conclusions of law. Those are about as general and as
24 nondescript as I think are appropriate under the
25 statute. I am perfectly willing to consider, and

1 although it may not be, this may not be the case in
2 which to do it, if there are more specific, if there are
3 more and more specific findings of fact and conclusions
4 of law that anybody thinks are appropriate, then let's
5 get those out and get them on the table earlier on so
6 that we can take a look at them at the end.

7 MR. CAMPBELL: Okay.

8 CHMN. FOREMAN: That will help the Committee to
9 make its -- focus the arguments before the Committee and
10 help the Committee to make its decisions in an
11 intelligent fashion.

12 MR. CAMPBELL: So prior to the hearing, you
13 would like us to file preferably jointly with Staff a
14 proposed CEC that the parties have agreed on or at least
15 to identify, if there are disagreements, identify what
16 those disagreements are and have that filed before the
17 hearing?

18 CHMN. FOREMAN: Yes, and conditions.

19 MR. CAMPBELL: Okay.

20 CHMN. FOREMAN: So we have got a document that
21 says parties agree on 90 percent of this, here is the
22 10 percent they don't agree on.

23 MR. CAMPBELL: Okay.

24 CHMN. FOREMAN: And the 10 percent they don't
25 agree on, here is what the applicant says, here is what

1 Staff says, so we can take a look at those two options
2 and decide whether we want to follow the two options or
3 throw them away, the same thing with the rest of the
4 items of the CEC, or the conditions.

5 MR. CAMPBELL: Okay, I understand.

6 CHMN. FOREMAN: Very good.

7 MS. WAGNER: And I think, did you mention
8 earlier you are intending to file this?

9 CHMN. FOREMAN: Yes.

10 MS. WAGNER: When? Because there is no Docket
11 No.

12 CHMN. FOREMAN: It will be filed with the
13 transcript when the transcript is filed. I will just
14 make it an exhibit to the hearing so it will be in the
15 docket.

16 MS. WAGNER: And I should know how this works
17 but I don't know. You will file the application at the
18 Commission. At that point it gets a Docket No. and then
19 this is filed under that Docket No.?

20 CHMN. FOREMAN: Yes.

21 MS. WAGNER: Is that --

22 CHMN. FOREMAN: If we continue consecutive
23 numbering, my guess is this is going to be No. 143. But
24 where that obviously is, the number will be the number
25 that Docket Control gives it.

1 MS. WAGNER: Assigns to it, sure.

2 CHMN. FOREMAN: All right. That, I think, runs
3 through my checklist. Do you folks have any -- we will
4 be scheduling, as I said, a preevidentiary hearing, but
5 we can do that here.

6 You have said May 18 and 19. What days of the
7 week are those?

8 MR. CAMPBELL: Monday and Tuesday.

9 CHMN. FOREMAN: Monday and Tuesday. I think
10 those days will work. And we previously checked with
11 Committee members about availability in May for the
12 other case.

13 So I think the other case is the week before,
14 isn't it, Tara?

15 MS. WILLIAMS: Yes, it is the week before. And
16 the 18th and 19th, I haven't heard from all of the
17 Committee members, but it seems that those would
18 probably work.

19 CHMN. FOREMAN: Okay, very good. Other
20 questions?

21 MR. CAMPBELL: I have a couple, just a couple,
22 just a couple logistical things that I would like for
23 timing.

24 CHMN. FOREMAN: Sure.

25 MR. CAMPBELL: Because the timing of getting the

1 published notice within the right time frames always is
2 a little tricky, in particularly in this case because in
3 this case the newspaper, there is the Sunday Prescott
4 newspaper. I believe it is Prescott, isn't it? The
5 Sunday Prescott newspaper is the only newspaper that's
6 actually delivered to Bagdad. And so what we would like
7 to do to comply with the two publication requirements is
8 on consecutive Sundays have the notice in the Sunday
9 Prescott paper which is then actually delivered to
10 Bagdad.

11 MS. WAGNER: You are talking about this draft?

12 MR. CAMPBELL: I am talking about this notice.
13 Actually it will be the Chairman's notice that's signed
14 and filed with Docket Control, but we, the applicant,
15 usually takes responsibility for publishing it. And we
16 have to get the notice to the newspaper the Wednesday
17 before the Sunday, so...

18 MS. WAGNER: So what does that mean in terms of
19 dates?

20 MR. CAMPBELL: There are two days we can do this
21 and that's what I wanted to talk about.

22 If we file on Friday, the 27th, let's assume
23 that the notice of the application is then delivered to
24 the Chairman who then signs the notice and delivers it,
25 files it back with Docket Control. And let's assume

1 that would happen then on Monday, March 30th. We would
2 then deliver the notice to the Prescott paper that
3 Wednesday, which would be April 1st. And it would be
4 published then on the 5th and the 12th of April, which
5 would be more than 30 days before the 18th, which is the
6 first day of hearing. That's probably the easiest way
7 to do it.

8 The other way, if you wanted to publish it the
9 two earlier Sundays, would be to provide the newspaper a
10 copy of the hearing that has been approved by the Staff
11 and the Chairman on the 25th, two days before we file,
12 provide it that day just showing it is signed on Friday
13 the 27th, and then publish it. But because when you get
14 to copying and collating and things like that -- I guess
15 I am hearing myself talk, thinking, Paul.

16 What I would suggest is that we try to file on
17 the 27th, no later than early the morning of the 30th.
18 If the Chairman believes he will be in the office and
19 available to sign it on the 30th, we would prepare a
20 dated notice that says the 30th, provide that to the
21 newspaper --

22 MS. WAGNER: That sounds much cleaner.

23 MR. CAMPBELL: -- on the 5th and the 12th.

24 CHMN. FOREMAN: I have to make sure I am not
25 furloughed on that day.

1 MR. CAMPBELL: That's right. Let's also hope
2 Docket Control isn't furloughed on that day. That would
3 really be a problem.

4 MS. WAGNER: We haven't had furloughs yet.

5 CHMN. FOREMAN: Yes, I think either one of those
6 days will work.

7 What is Staff's position about -- so you were
8 talking about publishing on the 29th or publishing on
9 the 5th?

10 MR. CAMPBELL: I think what we are suggesting is
11 to publish twice. We would publish on the 5th and the
12 12th. Those are the two Sundays.

13 MS. WAGNER: Based on what you have described, I
14 think that sounds cleaner.

15 MR. CAMPBELL: And then we will have an
16 application filed on Friday the 27th in all likelihood,
17 no later than Monday the 30th. And then as soon as the
18 Chairman has seen the application and can confirm that
19 the notice has been signed and filed, we will get that
20 to the newspaper that Wednesday, April 1st. And then it
21 will run those two Sundays. And that should take care
22 of the publication requirement which will fit -- well,
23 back up for a second.

24 Janet, I am trying to think, does it have to be
25 published twice?

1 Here is the problem. The two publications have
2 to be within ten days of the filing of the notice.

3 MS. WAGNER: I don't know, and I didn't bring, I
4 didn't bring the statutes.

5 MR. CAMPBELL: I know that that was an issue
6 before. We will have to look at that. I don't think I
7 brought the statutes.

8 The Sunday publication is what creates that
9 problem. That's why at one point we thought about doing
10 the March 29th publication and the April 5th, which we
11 could still do. We need to look at that, look at the
12 issue.

13 I don't know if I am being clear on the issue
14 but the issue is --

15 CHMN. FOREMAN: That's why I am looking at my
16 statute.

17 MR. CAMPBELL: -- from the date that -- whether
18 both publications have to be within ten days or just the
19 first one has to be within ten days. I know they have
20 be more than 30 days before the hearing. But there
21 is -- I know that issue has arisen before.

22 CHMN. FOREMAN: Perhaps it would be appropriate
23 to file, to publish in a paper of statewide circulation
24 like the Republic and the local paper.

25 MS. WAGNER: That's a good idea.

1 CHMN. FOREMAN: Do that on the first Sunday
2 or -- Sunday is probably as good as anything because my
3 guess is that there will be some people in the vicinity
4 who will take the Sunday Republic before they would take
5 it during the rest of the week. So if you would publish
6 in the Prescott paper and the Republic, did that on a
7 Sunday, and then I think that might solve your problem.

8 MR. CAMPBELL: It would. Frankly we were trying
9 to avoid the Republic only because that's a \$30,000
10 expense for the customer in this case.

11 CHMN. FOREMAN: Well --

12 MR. CAMPBELL: But we can certainly do that.

13 CHMN. FOREMAN: I am willing to be persuaded
14 that it would be -- I can't find the --

15 MR. CAMPBELL: Yes, I don't think it is crystal
16 clear. That's why I am not remembering it specifically
17 myself. Maybe we should -- we will go back, look at
18 that, try to work, see if the Staff and applicant can
19 agree on what the timing is and then communicate that to
20 the Chair.

21 CHMN. FOREMAN: My preference actually would be
22 Republic and the local paper because I think that would
23 have the best chance of notifying those people with an
24 interest in the area.

25 MR. CAMPBELL: Okay.

1 CHMN. FOREMAN: You may have some people who
2 don't live in the area who nevertheless have property in
3 the area and would be affected by it. And so I would
4 feel more comfortable with the Republic and the local
5 paper.

6 MR. HERNDON: I guess my only comment on that,
7 having been very familiar with the project and certainly
8 very noncontroversial to this point, typically on former
9 APS projects we have run a pretty big ad in the Arizona
10 Republic, like Tom says, in the \$30,000 range. I think
11 the real requirement is just to file something in the
12 legal notice section of the newspaper. And I am
13 wondering if that's adequate in this particular case.

14 CHMN. FOREMAN: Well, get together, talk about
15 it, tell me what you think, cite me the authority.

16 MR. CAMPBELL: The large ad, legally that's
17 right, the large ads have been at the request of the
18 Committee in prior cases. And, okay, well, let's --

19 CHMN. FOREMAN: As I said, even if it is not
20 legally required, I think I would probably feel more
21 comfortable with --

22 MR. CAMPBELL: The Republic.

23 CHMN. FOREMAN: -- with the Republic so we are
24 assured that we have cast our net and that we have done
25 everything reasonably possible to alert anybody who

1 might have an interest that would be brought -- involved
2 in this application.

3 MR. CAMPBELL: Okay. How about if we work with
4 our communications folks and see what the options are to
5 use the Republic and see what the various cost items
6 are? And maybe we can talk with Staff about what they
7 think would be an acceptable size ad in this particular
8 case.

9 CHMN. FOREMAN: Yes. I am not thinking that you
10 need to put a banner headline on the sports page.

11 MR. CAMPBELL: Yes, right.

12 MR. HERNDON: I am assuming if we do something in
13 the Republic that we will only need to do one in the
14 local.

15 MR. CAMPBELL: Right. We meet the two
16 publication requirement if we have one in the Republic
17 within ten days and then one in the Prescott paper
18 within ten days.

19 MR. HERNDON: We will explore that.

20 MR. CAMPBELL: The only other -- and what we
21 will do is work on a form and share it with Staff and
22 then provide you something that both of us find
23 acceptable.

24 The only other issue I had is that, we have
25 talked with Staff about this a little bit, just so it is

1 clear on the record, in prior cases we also posted signs
2 along the project route. And based on Staff's
3 preference, we will post a sign in this case. But we
4 wanted to make sure it was clear to everybody on the
5 record there is only one place you can post a sign on
6 this route. There is one road that hits the route. So
7 we will post, we will post a sign, but unlike some of
8 the prior cases where you can post multiple signs along
9 the route, the terrain is such and the records are such
10 there is one place they can put a sign where the road
11 and the route are adjacent. So --

12 CHMN. FOREMAN: Okay.

13 MR. CAMPBELL: -- that's what we will do.

14 CHMN. FOREMAN: I do want actual notice, though,
15 to go to BLM, State Land, the guy whose property you
16 said is close by and obviously the mine so that
17 everybody gets a copy, a formal copy of the notice about
18 that same time.

19 MR. CAMPBELL: Of this notice?

20 CHMN. FOREMAN: That notice.

21 MR. CAMPBELL: Okay. And I think that Docket
22 may send it to most of those folks.

23 CHMN. FOREMAN: Just make sure somebody gets it
24 to them.

25 MS. WAGNER: Yes, I wasn't aware that Docket --

1 MR. CAMPBELL: They have a mailing list where
2 they send out these return receipt things on these
3 notices. I wouldn't be surprised. State Land
4 certainly, I don't know BLM, State Land, the mine owner,
5 and the property owner in that little square there.

6 CHMN. FOREMAN: To whom you referred earlier in
7 the proceeding?

8 MR. CAMPBELL: Would get a copy of this notice.

9 MR. HERNDON: By the way, Tom, did you mention
10 that we are going to actually send a copy of the notice
11 to all the residents of Bagdad?

12 CHMN. FOREMAN: That would be great.

13 MR. CAMPBELL: This notice right here.

14 MR. HERNDON: Yes. We are going to target that
15 zip code and send the local notice to all the residents
16 in the town.

17 CHMN. FOREMAN: Excellent.

18 MR. HERNDON: That's only about a thousand or
19 so.

20 CHMN. FOREMAN: It would be very helpful if you
21 had some sort document that documented the notice that
22 you have provided so that that's in the record so that
23 everybody can see what has been done with regard to
24 publication, what has been done with regard to giving
25 them actual notice through the mail or whatever.

1 MR. CAMPBELL: We have -- what we were
2 anticipating doing is doing that through Mr. Herndon's
3 testimony where we have exhibits showing everything, and
4 so there would be a transcript there.

5 CHMN. FOREMAN: That would be fine. I am just
6 offering the written alternative as a way to make sure
7 that we had it there.

8 MR. CAMPBELL: Okay.

9 CHMN. FOREMAN: Anything else?

10 All right, very good. If something does come
11 up, please let me know. We will try to get it resolved
12 as quickly as we can.

13 MR. CAMPBELL: Great. And in terms of the hotel
14 that we will have to pay for pretty soon, we will know,
15 looks like the 18th is fine and we will quickly know if
16 that's not going to work?

17 MS. WILLIAMS: Yes.

18 CHMN. FOREMAN: Okay. That would be good, too.

19 (The proceedings concluded at 10:46 a.m.)

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1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA) ss.

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I, COLETTE E. ROSS, Certified Reporter No.
50658 for the State of Arizona, do hereby certify that
the foregoing printed pages constitute a full, true and
accurate transcript of the proceedings had in the
foregoing matter, all done to the best of my skill and
ability.

WITNESS my hand this 1st day of April, 2009.



COLETTE E. ROSS
Certified Reporter
Certificate No. 50658

Attachments

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An application for a Certificate of Environmental Compatibility was filed in the above captioned matter with docket control of the Arizona Corporation Commission (“Commission”) on [date of filing]. A copy of the application was transmitted to John Foreman, designee of the Attorney General of Arizona, Terry Goddard, as Chairman (“Chairman”) and Presiding Officer of the Arizona Power Plant and Transmission Line Siting Committee (“Line Siting Committee”). A.R.S. §§ 40-360.01(B)(1) and 40-360.03. As authorized by A.R.S. §§ 40-360.01(C) and (D), 40-360.04 and A.A.C. R14-3-201(E), the Chairman issues the following procedural order,

1. The Applicant and all other potential parties ("persons" within the meaning of A.R.S. § 40-360(8) who intend to intervene or request to intervene pursuant to A.R.S. § 40-360.05(A)) shall advise the Chairman in writing on or before the time of the pre-hearing conference scheduled below if they disagree that the time limit for decision on the application by the Line Siting Committee set by A.R.S. § 40.360.04(D) is [date approximately 180 days after filing].
2. The Applicant shall arrange for the publication and posting of notice of the evidentiary hearing as agreed to at a pre-application hearing involving the Applicant and all known potential intervenors, in a form approved by the Chairman and circulated for approval as to form to all known potential interested parties. In addition, the Applicant shall submit a copy of the notice and present testimony describing the publication and posting of the notice at the evidentiary hearing.
3. The Applicant shall make arrangements for the evidentiary hearing to be held at [location of the evidentiary hearing], Arizona, beginning at 9:30 a.m. on [beginning date of hearing], and continuing on [continuing date(s) of the evidentiary hearing] at 9:30 a.m. In addition, the Applicant shall make arrangements for a public comment

- 1 session to be held at the same venue starting at 6:00 p.m. on [date of public
2 comment session]. The Applicant shall make arrangements for further regular
3 sessions on [potential future dates of the evidentiary hearing], and, if needed,
4 additional public comment sessions on dates and at times to be determined later.
4. The Applicant shall contact Michael Kearns, Chief Finance Officer of the
5 Commission (602-542-0659) and advise him of the Applicant's position concerning
6 reimbursement of the Line Siting Fund should the expenses of the hearings exceed
7 the application fee and to discuss financial arrangements regarding hotel
8 reservations and other expenses of the Line Siting Committee members. A.R.S. §
9 40-360.10. The Applicant shall advise the Chairman of the results of these
10 discussions so the necessary information may be communicated to the Line Siting
11 Committee members.
5. The Applicant and all other potential parties ("persons" within the meaning of A.R.S.
12 § 40-360(8) who intend to intervene or request to intervene pursuant to A.R.S. § 40-
13 360.05(A)) shall meet and confer on or before the beginning of the evidentiary
14 hearing to determine whether any of the intervening parties have similar interests in
15 the application process that will allow them jointly to present testimony on direct or
16 cross-examination of witnesses or jointly to offer exhibits into evidence. The
17 Applicant shall, and any other potential party may, report to the Chairman the results
18 of the attempts of the parties to resolve the issues and to determine if common
19 interests exist that will allow parties to jointly present evidence and argument or to
20 avoid repetition of testimony and argument at the hearing.
6. The parties and any other potential parties ("persons" within the meaning of A.R.S. §
21 40-360(8) who intend to intervene or request to intervene pursuant to A.R.S. § 40-
22 360.05(A)) shall not communicate with any member of the Line Siting Committee
23 about any procedural matters, any factual issues or legal issues relating to the
24 Application while the Application is pending before the Line Siting Committee,
25 except that the parties may communicate with the Chairman during the time the
26 Application is pending about procedural matters relating to the preparation of the
Application for hearing, the hearing on the Application and the decision on the
Application by the Line Siting Committee. Communication of the parties with the
Chairman about any procedural matters during the time an Application is pending
shall be in writing with a copy of the writing to all parties or known potential parties
("persons" within the meaning of A.R.S. § 40-360(8) who have expressed an
intention to intervene or request to intervene pursuant to A.R.S. § 40-360.05(A)),
unless it is a communication on the record at a pre-application hearing, at a
procedural hearing or at the hearing on the application. Any party who initiates any
written communication sent to the Chairman shall file with docket control of the
Commission a copy of the communication including its distribution list within 10 days
of sending the communication.

- 1 7. Whenever an agenda is filed pursuant to A.R.S. § 38-431.02, the staff of the
2 Commission, or if it is not a party, the Applicant, shall submit at least forty-eight
3 hours before the hearing or meeting described in the agenda any objections,
4 additions or corrections to the agenda in order to bring the agenda into compliance
5 with A.R.S. § 38-431.02 in writing to the Chairman, serve a copy of upon all other
6 parties and file a copy with docket control of the Commission.
- 7 8. In addition, all parties shall meet and confer as needed before, during and after the
8 hearing to attempt to resolve any disputes amongst the parties. The parties also
9 shall keep all other parties advised of their positions and intentions with regard to the
10 presentation of evidence, witnesses and the application process in general to avoid
11 delay, the presentation of repetitive evidence and any unfair advantage from
12 surprise.
- 13 9. All parties shall prepare brief summaries of the expected direct testimony of each
14 witness they will call. In lieu of a testimonial summary, a party may pre-file and
15 exchange all or substantially all of the direct testimony of any witness. Testimonial
16 summaries and pre-filed testimony should be filed no later than the last pre-hearing
17 conference or three business days before the witness is to testify, whichever is later.
18 Except for good cause no witness will be allowed to testify on direct examination
19 concerning issues not reasonably identified in the pre-filed testimony or testimonial
20 summary.
- 21 10. All parties shall meet, confer and exchange all exhibits the party plans to offer in
22 evidence before the hearing or before they are referred to in testimony or offered in
23 evidence. The Applicant shall, and other parties may, provide one or more three
24 ring binders for the Chairman and each member of the Line Siting Committee to hold
25 exhibits at the beginning of the hearing and as needed during the hearing. Each
26 party shall prepare a numbered list of the exhibits and a copy of all exhibits suitable
for placement in the binders that have been exchanged with the other parties that
each party expects to offer in evidence at the hearing for the Chairman and each
Line Siting Committee member. The exhibits shall be provided at the beginning of
the hearing and during the hearing before reference to the exhibit is made in the
hearing. Except for good cause no exhibit that was not exchanged with the other
parties shall be considered at the hearing. Any exhibit to which reference is made
during any hearing that is not offered or admitted into evidence shall be provided to
the court reporter at the evidentiary hearing for inclusion in the record unless it is
withdrawn and the Chairman determines its filing is not necessary to an
understanding of the actions of the Committee.
11. All exhibits shall be consecutively numbered with the Applicant's exhibits
denominated: A-1, A-2, etc. Each intervening party will be assigned by the
Chairman a letter or letters of the alphabet as a preface with which to consecutively
number its exhibits. For example, the Commission will number its exhibits: CC-1,
CC-2, etc.

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12. The Applicant may make an opening statement at the beginning of the hearing of no more than thirty minutes. Each other party may make an opening statement of no more than five minutes.
13. Public comment will be heard after the opening statements and at other times set by the Chairman during the hearing. See ¶ 3, above.
14. The Applicant shall arrange for transportation of any Committee members who wish to attend a tour of the locations where facilities in the application or similar facilities are located. The Applicant shall submit to the Chairman for approval in advance of the hearing a schedule and protocol agreed to by all parties for the tour. If all parties do not agree upon the schedule and protocol for the tour, the disagreements shall be submitted to the Chairman for resolution. The protocol shall identify the tour route, identify the location of any stops, and identify any witnesses who will accompany the tour. Counsel may ask brief explanatory questions of the identified witness or witnesses during the stops about the location, what can be seen from the location of the stop and the relevance of the location or view to the Application in the discretion of the Chairman. All witnesses who testify on the tour shall be sworn before their testimony. All questions and answers shall be before a court reporter. The protocol shall provide for reasonable access to any testimony presented at stops on a tour to members of the public. Members of the public who wish to attend the tour shall be encouraged to notify the parties or the Commission staff in advance of their intention to attend.
15. Parties may present their witnesses in panels where appropriate. A party that intends to present witnesses in panels shall identify the members of any panel at the time it files its witness summaries.
16. The Applicant shall make arrangements for either the preparation of expedited court reporter transcripts of all pre-application hearings, pre-hearing procedural hearings and the evidentiary hearing, so that the transcripts are available for public inspection within three working days after each hearing date, as required by A.R.S. § 38-431.01D and § 40-360.04C. In addition, the Applicant shall file a certification with Commission docket control that it has provided a copy of the transcripts to at least two public libraries identified in the certification that are in the vicinity of the application.
17. On or before the final pre-hearing procedural hearing set below the Applicant shall, and the other parties may, file proposed findings of fact, proposed conclusions of law, the wording of any proposed Certificate of Environmental Compatibility and the wording of any proposed conditions to the Certificate.

1 18. If the beginning of closing arguments and the Line Siting Committee's deliberations
2 are more than one week after the beginning of the hearing, the parties shall meet
3 and confer after the hearing begins and before closing arguments concerning
4 proposed findings of fact, proposed conclusions of law, a proposed Certificate of
5 Environmental Compatibility and the wording of any proposed conditions to the
6 Certificate. If the parties are able to agree upon part or all of the proposed findings
7 of fact, proposed conclusions of law, proposed forms of Certificate of Environmental
8 Compatibility and proposed wording of conditions to the Certificate, all that is agreed
9 upon should be reduced to writing and filed with Commission docket control. If the
10 parties are not able to agree completely, the Applicant shall, and all other parties
11 may, file proposed findings of fact, proposed conclusions of law, proposed wording
12 of a Certificate of Environmental Compatibility and proposed wording of conditions to
13 the Certificate on the day before the beginning of closing arguments and the Line
14 Siting Committee's deliberations. If the Applicant or any other party proposes
15 conditions based upon conditions used in prior cases, each proposed condition from
16 a prior case shall contain the case number of the most recent prior Certificate of
17 Environmental Compatibility using the language approved by the Commission.

18 19. All witness summaries, proposed findings of fact, proposed conclusions of law,
19 proposed Certificates of Environmental Compatibility and proposed conditions of
20 Certificates, shall be filed with Commission docket control pursuant to A.A.C. R14-3-
21 204 and -205. If any documents that are filed are hand delivered during the hearing,
22 eleven copies shall be submitted to the Chairman for distribution to the other
23 Committee members.

24 20. Within five business days after the hearing concludes and the Committee renders its
25 decision, the parties shall meet and confer in person or electronically to determine if
26 they can agree upon the final wording of a proposed Certificate of Environmental
Compatibility. If the parties can agree upon the final wording of a proposed
Certificate of Environmental Compatibility, Applicant shall file forthwith the agreed
upon proposed Certificate of Environmental Compatibility. If the parties are not able
to agree upon a proposed form of Certificate of Environmental Compatibility, the
Applicant shall file and the other parties may file within ten days after the date of the
decision of the Committee those portions of the proposed Certificate of
Environmental Compatibility upon which the parties agree. The Applicant also shall
file and any other party also may file its understanding of any disputed portions of
the proposed Certificate of Environmental Compatibility. All proposed forms of the
Certificate of Environmental Compatibility and any objections or proposed revisions
shall be filed with docket control of the Commission and a copy shall be hand
delivered to the office of the Chairman at 1275 W. Washington, Phoenix, Arizona.
Objections or suggestions that are not timely filed shall be considered waived. The
copy of the proposed Certificate of Environmental Compatibility filed by the Applicant
and any proposed revisions filed by the parties served upon the Chairman shall
include an electronic file containing the wording of the proposed language in a
format compatible with Microsoft® Word word processing program.

1
2 21. The Applicant and all other potential parties ("persons" within the meaning of A.R.S.
3 § 40-360(8) who intend to intervene or request to intervene pursuant to A.R.S. § 40-
4 360.05(A)) shall meet with the Chairman for a final pre-hearing conference on [date
5 of final pre-hearing conference], at [time of pre-hearing conference] at the offices of
6 the Attorney General of Arizona at 1275 W. Washington, Phoenix, Arizona. Parties
7 may appear by telephone with the prior permission of the Chairman. At the final pre-
8 hearing conference the Chairman will review with the parties:

- 9
- 10 a. The publication and posting of notices of the hearing;
 - 11 b. The proposed agenda for the evidentiary hearing;
 - 12 c. Any notices to intervene, applications to intervene, and applications to make a
13 limited appearance;
 - 14 d. The status of attempts to narrow the issues at the evidentiary hearing or to
15 agree to language in the proposed findings of fact, proposed conclusions of
16 law, proposed Certificates of Environmental Compatibility and proposed
17 conditions to the Certificate;
 - 18 e. The status of the filing and exchange of witness summaries or written
19 testimony, proposed findings of fact, proposed conclusions of law, proposed
20 Certificates of Environmental Compatibility and proposed conditions to the
21 Certificate;
 - 22 f. The status of the exchange of exhibits amongst the parties;
 - 23 g. Any objections, motions, responses and legal memoranda that have been
24 filed;
 - 25 h. Plans and preparations for the hearing, public comment session, and tour of
26 the proposed site.

17 IT IS FURTHER ORDERED, the Chairman may amend or waive any portion of this
18 Procedural Order by subsequent Procedural Order, by ruling at a pre-hearing conference or
19 at a hearing.

20 DATED:

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22 _____
23 John Foreman
24 Assistant Attorney General
25 Chairman
26 Arizona Power Plant and Transmission
Line Siting Committee
john.foreman@azag.gov

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Pursuant to A.A.C. R14-3-204,
The Original and 25 copies were
filed [date] with:

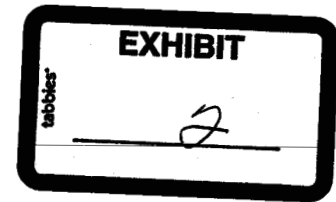
Docket Control
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Copy of the above mailed this
[date] to:

[parties and counsel]

#352156

DRAFT



CONDITIONS

This Certificate is granted upon the following conditions:

1. The Applicant shall obtain all approvals and permits required by the United States, the State of Arizona, the County of [county], and any other governmental entities having jurisdiction necessary to construct the Project.
2. The Applicant shall comply with all existing applicable statutes, ordinances, master plans and regulations of the United States, the State of Arizona, the County of [county], and any other governmental entities having jurisdiction during the construction and operation of the transmission line [power plant].
3. If any archaeological, paleontological or historical site or object that is at least fifty years old is discovered on state, county or municipal land during the construction or operation of the transmission line [power plant], the Applicant or its representative in charge shall promptly report the discovery to the Director of the Arizona State Museum, and in consultation with the Director, shall immediately take all reasonable steps to secure and maintain the preservation of the discovery. A.R.S. § 41-844.
4. If human remains and/or funerary objects are encountered on private land during the course of any ground-disturbing activities relating to the construction or operation of the transmission line [power

plant], the Applicant shall cease work on the affected area of the Project and notify the Director of the Arizona State Museum. A.R.S. § 41-865.

5. The Applicant shall comply with the notice and salvage requirements of the Arizona Native Plant Law (A.R.S. §§ 3-901 et seq.) and shall, to the extent feasible, minimize the destruction of native plants during the construction and operation of the transmission line [power plant].
6. The Applicant shall not assign this Certificate or its interest in the Project authorized by this Certificate without prior approval of the Commission. Any assignment of this Certificate shall require the assignee to assume all responsibilities of the Applicant listed in this Certificate.
7. This authorization to construct this Project shall expire five years from the date the Certificate is approved by the Commission unless the transmission line [power plant] is capable of operation. However, prior to expiration, the Applicant or its assignees may request that the Commission extend this time limitation.
8. In the event that the Project requires an extension of the term of this Certificate prior to completion of construction, Applicant shall use reasonable means to notify all landowners and residents within one mile of the Project corridor [location], all persons who made public comment at this proceeding, and all parties to this proceeding of the request and the time and place of the hearing in which the Commission will consider the request for extension.

9. The Applicant shall make every reasonable effort to identify and correct, on a case-specific basis, all complaints of interference with radio or television signals from operation of the transmission lines and related facilities addressed in this Certificate. The Applicant shall maintain written records for a period of five years of all complaints of radio or television interference attributable to operation, together with the corrective action taken in response to each complaint. All complaints shall be recorded to include notations on the corrective action taken. Complaints not leading to a specific action or for which there was no resolution shall be noted and explained.
10. Within 120 days of the Commission decision granting this Certificate, Applicant will post signs in public rights-of-way giving notice of the Project corridor to the extent authorized by law. The Applicant shall place signs in prominent locations at reasonable intervals such that the public is notified along the full length of the transmission line until the transmission structures are constructed. To the extent practicable, within 45 days of securing easement or right-of-way for the Project, the Applicant shall erect and maintain signs providing public notice that the property is the site of a future transmission line. Such signage shall be no smaller than a normal roadway sign. The signs shall advise:
- (a) That the site has been approved for the construction of Project facilities;
 - (b) The expected date of completion of the Project facilities;
 - (c) A phone number for public information regarding the Project;
 - (d) The name of the Project;
 - (e) The name of the Applicant; and
 - (f) The website of the Project.

11. Applicant, or its assignee(s), shall design the transmission lines to incorporate reasonable measures to minimize impacts to raptors.
12. Applicant, or its assignee(s), shall use non-specular conductor and dulled surfaces for transmission line structures.
13. Before construction on this Project may commence, the Applicant shall file a construction mitigation and restoration plan ("Plan") with ACC Docket Control. Where practicable, the Plan shall specify the Applicant's plans for construction access and methods to minimize impacts to wildlife and to minimize vegetation disturbance outside of the Project right-of-way particularly in drainage channels and along stream banks, and shall re-vegetate, unless waived by the landowner, native areas of construction disturbance to its preconstruction state outside of the power-line right of way after construction has been completed. The Plan shall specify the Applicant's plans for coordination with the Arizona Game and Fish Department and the State Historic Preservation Office. The Applicant shall use existing roads for construction and access where practicable and the Plan shall specify the manner in which the Applicant makes use of existing roads.
14. With respect to the Project, Applicant shall participate in good faith in state and regional transmission study forums to coordinate transmission expansion plans related to the Project and to resolve transmission constraints in a timely manner.
15. The Applicant shall provide copies of this Certificate to [all affected governmental entities, e.g., affected cities and counties, the Arizona State Land Department, the State Historic Preservation Office, and the Arizona Game and Fish Department].

16. Prior to the date construction commences on this Project, the Applicant shall provide known homebuilders and developers within one mile of the center line of the Certificated route [power plant] the identity, location, and a pictorial depiction of the type of power line [plant] being constructed, accompanied by a written description, and encourage the developers and homebuilders to include this information in the developers' and homebuilders' homeowners' disclosure statements.

17. Before commencing construction of Project facilities located parallel to and within 100 feet of any existing natural gas or hazardous liquid pipeline, the Applicant shall:

(a) Perform the appropriate grounding and cathodic protection studies to show that the Project's location parallel to and within 100 feet of such pipeline results in no material adverse impacts to the pipeline or to public safety when both the pipeline and the Project are in operation. If material adverse impacts are noted in the studies, Applicant shall take appropriate steps to ensure that such material adverse impacts are mitigated. Applicant shall provide to Commission Staff reports of studies performed; and

(b) Perform a technical study simulating an outage of the Project that may be caused by the collocation of the Project parallel to and within 100 feet of the existing natural gas or hazardous liquid pipeline. This study should either: i) show that such outage does not result in customer outages; or ii) include operating plans to minimize any resulting customer outages. Applicant shall provide a copy of this study to Commission Staff.

18. Applicant will follow the latest Western Electricity Coordinating Council/North American Electric Reliability Corporation Planning standards as approved by the Federal Energy Regulatory Commission, and National Electrical Safety Code construction standards.
19. The Applicant shall submit a self-certification letter annually, identifying progress made with respect to each condition contained in the Certificate, including which conditions have been met. Each letter shall be submitted to the Docket Control of the Arizona Corporation Commission on December 1 beginning in 2009. Attached to each certification letter shall be documentation explaining how compliance with each condition was achieved. Copies of each letter along with the corresponding documentation shall be submitted to the Arizona Attorney General and Department of Commerce Energy Office. The requirement for the self-certification shall expire on the date the Project is placed into operation.
20. Within sixty (60) days of the Commission decision granting this Certificate, the Applicant shall make good faith efforts to commence discussions with private landowners, on whose property the Project corridor is located, to identify the specific location for the Project's right-of-way and placement of poles.
21. The Applicant shall expeditiously pursue reasonable efforts to work with private landowners on whose property the Project right-of-way will be located, to mitigate the impacts of the location, construction, and operation of the Project on private land.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Certificate incorporates the following findings of fact and conclusions of law:

1. The Project is in the public interest because it aids the state in meeting the need for an adequate, economical and reliable supply of electric power.
2. In balancing the need for the Project with its effect on the environment and ecology of the state, the conditions placed on the CEC by the Committee effectively minimize its impact on the environment and ecology of the state.
3. The conditions placed on the CEC by the Committee resolve matters concerning the need for the Project and its impact on the environment and ecology of the state raised during the course of proceedings, and as such, serve as the findings on the matters raised.
4. In light of these conditions, the balancing in the broad public interest results in favor of granting the CEC.